

SECTION 11

OPEN SPACE RESIDENTIAL DEVELOPMENT

An "Open Space Residential Development" shall mean a detached single-family residential development in which the house lots are clustered together into one or more groups, and each group separated from one another and adjacent properties by permanently protected open space.

Open Space Residential Developments shall be permitted in the Rural and Residence A Districts only upon issuance of a Special Permit by the Planning Board, with subsequent Subdivision Approval from the Planning Board, as specified in M.G.L. Chapter 40A, Section 9. Open Space Residential Developments shall not be permitted in Areas 1 and 2 of the Water Resource Protection Overlay District.

11-A PURPOSE AND INTENT

The purpose of Open Space Residential Development is to permit greater flexibility and creativity in the design of residential subdivisions, provided that the overall density of the development is no greater than what is normally allowed in the district in which it may be located, ultimately resulting in:

- (1) the permanent preservation of open space for the protection of the Town of Walpole's existing character of the landscape, scenic views, groundwater supply, floodwater storage capacity, woodlands, wetlands, agricultural lands, wildlife habitat, conservation and recreational opportunities;
- (2) more economical, efficient, and environmentally-sensitive use of residential land than may be accomplished through conventional subdivision development; and
- (3) the maintenance of the traditional New England rural character and land use pattern in which small villages contrast with open space and agricultural lands.

11-B APPLICABILITY AND REQUIREMENTS

Any provision of the Walpole Zoning By-Law to the contrary notwithstanding, the following standards shall be used as additional requirements in the Special Permit process for all Open Space Residential Developments:

- (1) The development shall include detached single-family dwellings only.
- (2) The minimum land required for Open Space Residential Development shall be twenty (20) contiguous acres held in single ownership or control at the time of application.
- (3) Each lot shall have adequate access on a public or private way.
- (4) There shall be an adequate, safe, and convenient arrangement of pedestrian circulation facilities, roadways, driveways, and parking.
- (5) On-site septic systems shall not be permitted in the development. All lots shall be serviced by common sewer.
- (6) Each lot shall contain a building site which will be in harmony with the natural terrain and other features of the land.
- (7) The site design shall preserve and, where possible, enhance the natural features of the property, including scenic views, by adapting the location and placement of structures and ways to the existing topography in order to minimize the amount of soil removal, tree cutting, and general disturbance to the landscape and surrounding properties.
- (8) The plan shall identify the location and extent of all wetlands on the site as determined by the Conservation Commission under M.G.L. Chapter 131, Section 40, and the Town of Walpole Wetland Protection By-law,

11-C DIMENSIONAL AND DENSITY REQUIREMENTS

Any provision of Section 4 of the Walpole Zoning By-Law to the contrary notwithstanding, the following standards shall be used as additional requirements in the Special Permit process for all Open Space Residential Developments:

- (1) A detached single-family dwelling, or lawful accessory building, may be constructed on a lot within an Open Space Residential Development although such lot has less area and frontage than normally required, as herein specified.
- (2) The maximum number of dwelling units permitted in an Open Space Residential Development shall not exceed the number of dwelling units that can be reasonably expected under conventional development of the same parcel(s). To substantiate the number of dwelling units contemplated in the development, the applicant shall submit a plan designed under conventional development, conforming to all dimensional requirements of the Zoning By-Law and Subdivision Rules and Regulations of the Town of Walpole.
- (3) Minimum lot size shall be 20,000 square feet in the Rural District, and 15,000 square feet in the Residence A District, with the following minimum requirements: frontage of 80 feet at the street line, setback of 30 feet, side yard of 15 feet, and rear yard of 30 feet. Each lot shall have an area in which a circle may be located, the diameter of which is 80 feet, tangent to the street line from which the frontage and setback are derived and within all other lot lines. The following maximum requirements shall also apply: building height of 35 feet, lot coverage by structures of 25%, and lot coverage by structures and other impervious surfaces of 40%.
- (4) There shall be a buffer strip of at least 50 feet in width surrounding the perimeter of the development. Except for public utility and access easements, the buffer strip shall not be an easement across individual lots but shall be part of the common open space. The area within the buffer strip shall include trees and shall be kept in a naturally-landscaped condition. No trees shall be cut within the buffer strip without the permission of the Planning Board. No residential structures or accessory uses shall be permitted within the buffer. Only roadway intersections and land set aside for future road connections shall be allowed within the buffer strip. This paragraph shall be noted on the deed to the common open space and on individual deeds, for those lots which abut the buffer strip.

11-D OPEN SPACE REQUIREMENTS

- (1) All land not devoted to dwellings, accessory uses, roadways, or other development shall be set aside in perpetuity as common land for recreation, conservation, or agricultural uses which preserve the land in essentially its natural condition. Such land shall be maintained and improved in accordance with sound conservation standards, practices, and procedures.
- (2) The total area of common open space shall equal or exceed the area by which all detached single-family dwelling lots are reduced below the minimum lot area normally required for zoning compliance in the zoning district in which they are located, but in no instance shall the amount of land to be set aside as open space be less than 40% of the total land area included in the development, excluding land area of roadways.
- (3) The total area of common open space shall not be comprised of more than 50% wetlands as defined under M.G.L. Chapter 131, Section 40, and the Town of Walpole Wetland Protection By-Law.
- (4) Open space parcels shall be planned as large, continuous units wherever possible. Strips of common open space having a minimum width of 50 feet shall be permitted only when necessary for access or as vegetated buffers along the sites perimeter. Parcels of lesser width may be permitted at roadway or lot corners at the discretion of the Planning Board. Common open space may be comprised of more than one parcel provided that the size, shape, and location of such parcels are suitable for their designated uses in the opinion of the Planning Board.

- (5) Further subdivision of common open space or its use for other than recreation, conservation, or agriculture, except for easements for underground utilities, shall be prohibited, and a notation to this effect shall be shown upon the subdivision plans recorded with the Registry of Deeds. Structures or buildings accessory to recreation, conservation, or agricultural uses may be erected, but shall not exceed 5% coverage of such open space.

11-E OPEN SPACE OWNERSHIP

All common open space shall either be:

- (1) Conveyed to a non-profit, incorporated community association owned, or to be owned, by the owners of lots within the development. If such a community association is utilized, ownership thereof shall pass with conveyances of the lots in perpetuity;
- (2) Conveyed to a non-profit organization, the principal purpose of which is the conservation or preservation of open space; or
- (3) Conveyed to the Town of Walpole, at no cost, and be accepted by it for park or open space use, subject to the approval of the Board of Selectmen.

In any case where such land is not conveyed to the Town, a restriction in perpetuity as defined under M.G.L. Chapter 184, enforceable by the Town, shall be recorded to ensure that such land shall be kept in an open or natural state and not be built upon for residential use or developed for accessory uses such as parking or roadways. Said perpetual restriction shall be in a form approved by the Conservation Commission, Planning Board, and Board of Selectmen. The applicant shall provide satisfactory assurance that such perpetual restriction, following approvals, has been properly recorded in the Registry of Deeds, and the interest in land thereby created is not subject to any mortgage, security, interest, lien, or other monetary encumbrance of any kind other than the aforesaid perpetual restriction.

11-F PROCEDURES AND APPLICATION REVIEW

- (1) To promote better communication and to avoid misunderstandings, applicants are strongly encouraged to submit preliminary proposals for informal review by the Town Planner, Town Engineer, Conservation Agent, Health Agent, Building Inspector, and the Superintendent of Sewer and Water prior to formal application.
- (2) The applicant shall file a copy of the Open Space Residential Development Special Permit application with all accompanying plans, including a plan of the proposed subdivision designed under this section of the Zoning By-Law and a conventionally-designed plan as required under Subsection C, with the Planning Board. Said plans shall also be filed with the Board of Health, the Sewer and Water Commission, the Engineering Department, and the Conservation Commission. Said boards and departments shall, within 35 days from the date of receipt of the application materials, file their written recommendations on the proposal with the Planning Board. If no such recommendations are filed within 35 days by any such board or department, the Planning Board shall deem such board or department to have no recommendations on the plans.
- (3) The Planning Board shall hold a public hearing and shall render a decision on an application in accordance with the provisions of M.G.L. Chapter 40A, Section 9 and Section 11. Approval of an Open Space Residential Development Special Permit shall be granted by the Planning Board only upon determination that the plan is in harmony with the general purpose of this section of the Zoning By-Law and that it is designed in such a manner as to make it sufficiently advantageous for the Town of Walpole to depart from the requirements of this By-Law otherwise applicable to the residential districts in which the Open Space Residential Development is to be located.

- (4) The approval by the Planning Board of a Special Permit under this section of the Zoning By-Law shall not substitute for compliance with M.G.L. Chapter 41 nor oblige the Planning Board to approve a related Definitive Plan for subdivision, nor reduce any time periods for Planning Board consideration under that law. A Definitive Plan designed under an approved Special Permit for Open Space Residential Development shall be in substantial conformity with all plans under which such approval was based.
- (5) The Planning Board shall, insofar as practical under law, adopt regulations establishing procedures for the submission and approval of an Open Space Residential Development Special Permit application.